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LETTER OF INTENT

September , 1971

Boston Redevelopment Authority  
New City Hall  
One City Hall Square  
Boston, Massachusetts 02201

Gentlemen:

Re: PARK PLAZA

This letter sets forth the present intentions of the undersigned, Boston Urban Associates ("Urban"), for the proposed development of certain parcels of land in the proposed Redevelopment Area commonly known as Park Plaza.

This proposal covers and includes the three land areas sometimes referred to by the Boston Redevelopment Authority (the "Authority") as Parcels 1, 2 and 3 of the Park Plaza Urban Renewal Area, suitably identified on the plan annexed to this Letter of Intent. Intended to be included as a part of the land area the Authority has from time to time referred to as Parcel 1 is the Eastern Gas and Fuel Associates property. The Authority contemplates that these land areas will be covered by the Park Plaza Urban Renewal Plan (the "Plan") now in the process of being developed and proposed to be submitted for adoption by the Authority, and approval by the Boston City Council (the "Council"), and the State Department of Community Affairs (the "State"). The Director of the Authority shall be referred to as the "Director".

PART I.

INTRODUCTIONS AND DEFINITIONS

Urban has been tentatively designated as the Redeveloper in Park Plaza, subject to agreement between Urban and the Authority upon a satisfactory form of Land Disposition Agreement and



formal execution, delivery and performance thereof. The development (the "Project") which Urban proposes consists of the following elements:

- a) building areas intended for use as business offices ("Offices");
- b) building areas intended for use as retail shopping and service facilities ("Retail");
- c) a building area intended to be used as a hotel ("Hotel");
- d) building areas to be used as garages ("Garages"); and finally
- e) building areas to be used as apartments ("Apartments").

In addition, open areas (the "Open Areas") in and about Park Plaza, and a part of the Project proper, shall be developed by Urban incident to construction of portions of the Project, all of which shall be improved by amenities such as landscaping, lighting, street furniture, and other items suitable and appropriate to the Project in accordance with the Plan. Urban recognizes that the Director shall determine whether the aforementioned improvements are in conformity with the Plan.

The parcels of land within the Project area will be put to multiple uses. For example, certain of the Apartments will be constructed over retail stores and certain offices will, likewise be constructed over retail stores.

For convenience of reference, land in Park Plaza has been redivided and classified according to the Schedule entitled "Development Schedule for the Various Stages of Park Plaza", annexed hereto, by reference to the timing under which such land is presently intended to be developed. For example, the area presently proposed to be improved with an hotel and parking garage is entitled "Phase I-A".



The designation of the several parcels, and the division lines among parcels, are diagrammatic only, and are not intended to indicate with precision property boundary lines, since the determination of such boundary lines cannot usefully be made until plans have reached a more definitive stage.

The Authority shall, incident to the development of the Project, perform or cause to be performed such site work, including relocation of public ways and public easements (the "Site Work"), all as itemized in the Schedule annexed hereto entitled "BRA Site Obligations".

## PART II.

### FIRST PHASE ACTIVITIES

#### Section 2.1. Schematic Design

Promptly after the Authority's acknowledgement that this letter represents the parties' present intentions and approval of the Plan by the Authority and the Council and submission to the State, Urban shall proceed to the preparation of the Schematic Design for the Project in accordance with Stage I of the standard Boston Redevelopment review process which is known as "Schematic Design" and shall, as soon as the same is available, submit the same for the review and comment of the Director and upon reaching an accord thereon, the approval of the Schematic Design; provided, however, if the State shall not have approved the Plan within ninety (90) days after the submission of the same, Urban shall have the right to suspend further work on the Schematic Design. If Urban shall have so suspended such work, but within one hundred eighty (180) days after the submission of the Plan, the State shall have approved the Plan, Urban shall immediately recommence work on the Schematic Design. At any time after one hundred eighty (180) days following submission of the Plan to the State, State approval not having been given, Urban shall have the right to terminate all further obligations under this agreement and thereupon the Authority shall return to Urban any deposit theretofore made by Urban with the Authority.



Urban intends to retain, as the principal consulting architect (the "Architect") for the Project, the firm of Davis, Brody & Associates of New York City. The Architect shall initially be responsible for the preparation of the Schematic Design. Urban also intends, however, to retain the services of other architects to work in association with the Architect for various elements of the Project.

The Schematic Design shall be presented to the Authority not later than the later to occur of:

- a) three (3) months after the date of this Letter Agreement;
- b) two (2) months after approval of the Plan by the Authority and the Council and submission to the State, but no sooner than four (4) months after such approval by the Authority and the Council;
- c) two (2) months after the execution of a form of Land Disposition Agreement mutually satisfactory to the Authority and to Urban; or

Approval of the Plan, for all purposes of this Letter of Intent, shall include, as a part of the same, authorization from the Council for the Authority to execute a Cooperation Agreement with the City regarding the Site Work and authorization for Loan Order to cover said Site Work. However, the City shall not be required to perform the Site Work until the Authority has received satisfactory evidence that financing is available to commence land acquisition on Phase I-A and until the Developer provides satisfactory evidence, reasonably satisfactory to the Authority, that it is prepared to commence construction.

In connection with the preparation of the Schematic Design Urban intends to reflect the agreement of the Authority and Urban that the proposed office tower is to be located at the corner of Arlington and Boylston Streets. However, Urban agrees with the Authority to



study possible alternatives, and to make available to the Authority such materials as are developed in connection with such study; but the decision whether a possible shift in location is feasible shall be Urban's decision, to be made at the time the Schematic Design is submitted to the Authority.

## Section 2.2. Preparation and Adoption of the Plan

Following execution of this Letter of Intent, the Authority shall complete drafting of the Plan and shall consult with Urban relative to the contents thereof. The Plan shall be drawn in the fashion commonly and customarily followed by the Authority in other Urban Renewal areas in the City of Boston for projects of the quality and character of Park Plaza, and shall contain provisions calling for use of the various parcels in Park Plaza in a manner consistent with the Parcel Schedule as mutually agreed upon.

As soon as may be practicable after agreement has been reached between the Authority and Urban relative to the contents of the Plan, the same shall be submitted for formal adoption by the Authority and thereafter, the Authority shall use its best efforts to secure approval by the Council and the State.

As soon as practicable after formal approval of the Plan, the Director shall initiate the steps requisite to rezoning of the Project area. Such steps shall include, but without limitation, the scheduling of necessary public hearings and preparation of appropriate documents, all to the end that the Authority shall have made all necessary recommendations to appropriate City authority to place the Project area in a so-called planned development area, as that term is defined in the Zoning Ordinance for the City of Boston, with zoning controls consistent with this Letter of Intent, the Plan, and the Land Disposition Agreement to which reference is hereinafter made.



All such hearings and materials shall have been held and completed in sufficient time in advance of the estimated date when land acquisition for each phase is to take place so that it will be feasible, simultaneously with the Authority's acquisition of land in one phase of the Project area, to cause (by the action of appropriate City authority) acquired land to be rezoned. It is understood that Urban will not be required to go forward with land acquisition in any one phase unless the rezoning is accomplished not later than concurrently with such acquisition (or there are absolute assurances that such rezoning will be accomplished), and the Authority agrees to use its best efforts to secure necessary rezoning action, all as aforesaid.

Since it is contemplated that acquisition of parts of the Project area will occur at different times, necessary zoning action will be phased accordingly, so that the same is taken, with respect to each acquired portion, separately and only after acquisition occurs.

#### Section 2.3. Subsequent Action by the Authority in Respect of Project Design

Not later than fifteen (15) working days after submission of the Schematic Design, the Director of the Authority shall either approve the Schematic design or notify Urban of the specific respects in which it finds the Schematic Design to be unacceptable, it being understood that, if the Schematic Design is in conformity with the conceptual design heretofore submitted by Urban and in conformity with the objectives of the Plan and the controls stated therein, approval of the Schematic Design will not be withheld.

If the Director of the Authority does not notify Urban within said fifteen-day period after submission of the Schematic Design of specific respects in which the same is unacceptable, the Schematic Design shall be treated as having been approved by the Authority. In respect to any specific matters in the Schematic



Design of which the Director of the Authority disapproves, Urban shall, within fifteen (15) working days (or such additional time as may be reasonably required in the circumstances) after Urban receives written notices of such disapproval, resubmit the entire Schematic Design, altered in an effort to remove the basis for disapproval. All resubmissions and subsequent approvals or disapprovals thereof shall be made and given in accordance with the procedure hereinabove provided for the original submission, until the Schematic Design shall be approved or shall be treated as having been approved by the Authority as set forth above. The preceding sentence shall govern the procedure applicable to resubmissions of later stages of the various design documents. Subject to the foregoing, the Standard BRA Design Review procedures shall govern and the procedure applicable to resubmissions of later stages of the various design documents, except that the preliminary working drawings and outline specification stage shall be omitted. In connection with the foregoing, however, the parties contemplate that submission of design material and review of the same will be a continuous process, with the parties working cooperatively in respect of all Project design matters. As work proceeds, Urban shall furnish progress prints of drawings, to assist in the efficient conduct of the review process.

#### Section 2.4. Development

The Authority acknowledges advice from Urban that Urban intends to develop the Project in phases, as set out in the "Development Schedule for the Various Stages of Park Plaza" annexed hereto, except that the housing located in that part of Parcel 3 intended for low-to-moderate-income housing for the elderly is to proceed only if subsidized financing for the same can be secured, Urban agreeing to use its best efforts to obtain such financing and to keep the Authority advised from time to time of its program in this respect. Site Work in the Project area shall be coordinated with the phasing in the development.



## Section 2.5. Subsequent Design Materials

Subsequent design materials for the first phase shall be furnished in accordance with the following schedule:

- a) Design development (in which the various elements in Phase I-A shall be identified and integrated, massing shall be shown, and preliminary functioning elements shall be laid out, together with outline specifications therefor, which shall include designations of materials proposed to be used) shall be submitted to the Authority not later than five (5) months after approval of the Schematic Design; and
- b) Working drawings and specifications, defined to include detail relative to exterior treatment of the various building elements and exterior amenities, specifications for materials, and details relative to methods of construction, site work, streets, elevations and sections, pedestrian and vehicular passage, and public pedestrian levels in interior building spaces, in sufficiently complete form that the same may be utilized for the Construction Contract working drawings and specifications, shall be submitted not later than five (5) months after approval by the Authority of design development drawings.

The Director of the Authority shall not unreasonably withhold approval of design materials submitted subsequent to the Schematic Design which are consistent with and elaborations of previously approved materials. Materials for the various phases outlined in the attached "Development Schedule" shall be furnished to the Authority for its approval in like sequence, and approvals or disapprovals of the same, and the time periods within which the same are to be given, shall be governed by the procedure established in Section 2.3. Submission of design development materials for Phase I-B, as shown on the "Development Schedule", shall be required to be furnished to the Authority not later than eighteen (18) months after the approval by the Authority of Design development materials for Phase I-A; and design development materials for Phase II, as shown on the Parcel Schedule, shall be required to be submitted to the Authority not later than forty-eight (48) months after approval by the Authority of Phase I-A design development materials.



PART III.  
ECONOMIC FEASIBILITY

Not later than three (3) months after the Authority shall have approved the Schematic Design for Phase I-A, Urban shall submit to the Director evidence reasonably satisfactory to the Director of the availability and commitment of financing for Phase I-A. The commitment for financing shall be in a form such that land acquisition for the Phase can commence within four (4) months after its receipt. However, it is understood that, until possession of the property is assured by the eviction of all occupants, and the City has provided satisfactory assurances as to the timing and completion of utilities' relocation, thereby making more certain the actual construction date, the availability of financing for construction (as distinguished from the commitment relative to financing of land acquisition, which shall be firm before land acquisition commences) will not be in the form typical of final letters of commitment, but such evidence of availability and commitment satisfactory to the Director shall be submitted within sixty (60) days of such complete possession.

The Authority agrees to use its best efforts to complete property value appraisals of Phase I-A and Phase I-B, and such additional areas directly related to Phase I, as to which, Urban shall advise the Authority that appraisal work is reasonably needed in order to prepare its financing plans, within one (1) month after final approval of the Plan by the State. In any event, Urban shall not be required to submit evidence of availability of financing until two (2) months after such property value appraisal work is substantially completed. Like evidence of financing plans for Phase I-B and Phase II shall be furnished by Urban to the Authority no later than four (4) months before proposed commencement of land acquisition of each such phase.

Urban agrees to reimburse the Authority for certain of its out-of-pocket costs and expenses in connection with the Project. The parties recognize, however, that there is some difficulty in defining those costs, and, accordingly, Urban agrees to pay, on account of all the Authority's costs and administrative expenses (except as hereinafter



noted) \$75,000.00 for and with respect to the period ending December 31, 1972, \$50,000.00 for and with respect to the calendar year 1973, and \$25,000.00 (or a portion thereof) for each subsequent calendar year or fraction thereof, until construction on Phase II-C has commenced, but, in any event, only during periods when substantial services are being rendered by the Authority in connection with Urban's Project.

In addition:

- a) For the period which ends with final action by the Council on the Plan, Urban agrees to pay the actual out-of-pocket costs and expenses of the Authority for outside appraisers and outside counsel, but not to exceed \$30,000.00; and, until such approval, Urban's other obligations of reimbursement under this Part III shall not accrue;
- b) After approval of the Plan by the Council, Urban agrees to pay all the Authority's out-of-pocket costs and expenses incurred for outside appraisers, title searches, and outside counsel retained by mutual agreement of Urban and the Authority;
- c) The Authority's out-of-pocket costs and expenses incurred for counsel in carrying out the Authority's obligations under Section 4.3, Paragraphs b) and d); and
- d) The Authority's out-of-pocket costs and expenses incurred to third parties in connection with any Bond Issue to which reference is made in succeeding Sections of this Letter of Intent shall be borne by Urban.

Failure to make prompt payment of all such costs and amounts shall constitute a default by Urban of its obligations to the Authority.

#### PART IV.

##### LAND DISPOSITION AGREEMENT

##### Section 4.1. Scheduling of Land Acquisition

In recognition of the fact that separate financing may be appropriate for the various stages of the Project, and because it may be necessary to assure the various financing institutions which will be



involved in providing financing therefor of independent security for financing so provided, the Authority shall, on the request of Urban, cause the Project to be divided into areas according to the agreed-upon phases of development of the Project, and shall agree to separate land sales or leases with Urban for each of such separate areas. Such separation may occur after the execution of a "master" Land Disposition Agreement for the entire Project area, and the execution by Urban of such a master Land Disposition Agreement shall not preclude subsequent separation as may be mutually determined.

In all events, the rights of the Authority with reference to each Stage of the development of the Project, and the obligations of Urban in respect to the same, shall be separate, so that any claim of default with reference to any one such Stage shall not give rise to any claim of default with reference to any other Stage of development of the Project; provided, however, that, should Urban be determined to be in default in any Stage of the development of the Project in accordance with the terms or conditions of applicable agreements between the parties respecting said Stage, Urban shall forfeit the right to commence work on any other Stage of the Project. References hereinafter to the Land Disposition Agreement shall mean the master Land Disposition Agreement or individual Land Disposition Agreements, as the case may be.

#### Section 4.2. Financing of Acquisition and Other Costs

Urban understands that there is no reasonably likelihood of Governmental assistance or subsidies being available in the near future to assist in the Project, and Urban has advised the Authority that it is considering the feasibility of effecting financing of land acquisition costs, relocation costs, and demolition costs, if any, within the Project area by the use of bond issues (the "Bond Issue") under the aegis of the Authority, in suitable principal amounts.

The Authority agrees to cooperate (but without out-of-pocket expense to the Authority) with Urban in Urban's consideration of such financing route, and the Authority agrees to utilize such a financing



vehicle to assist Urban in such financing from time to time, provided that Urban furnishes assurances reasonably satisfactory to the Authority that Urban has arranged for the marketing of the same and that the prospective lender or investment banking house responsible for such marketing is satisfied with the legality of the Bond Issue, on the basis of the opinion of counsel to such lender or investment banker, which opinion shall be submitted to the Authority. The opinion of a recognized bond counsel as to the legality of this financing which is acceptable to such prospective lender or investment banking house, upon which opinion the prospective lender or investment banking house commits to rely in proceeding to close the proposed financing, shall constitute assurances reasonably satisfactory to the Authority.

However, the Authority shall not be required to commence the acquisition of land for any phase until the Authority is provided with evidence reasonably satisfactory to the Authority that the total estimated acquisition, relocation and demolition costs, where appropriate, for said phase shall be available to the Authority; for example, if a national bank shall provide a commitment to make available, for such purposes, an amount equal to such estimated costs, the same shall be satisfactory assurance.

#### Section 4.3. Transfer to Urban

The Land Disposition Agreement shall provide for the assumption by Urban of all carrying costs on land acquired by the Authority in accordance with the schedule to which reference is hereinafter made, from and after such acquisition.

In this connection it is contemplated that the Authority shall:

- a) As soon as practicable after the Plan is legally in effect, the Authority shall notify all those persons entitled to notice thereof under the applicable provisions of Chapter 121B of the adoption of the Plan;
- b) Defend any action brought challenging the Plan, or the validity of the adoption thereof, taking all



reasonable steps necessary to expedite early and final disposition of any such claims;

- c) Prepare a suitable relocation program for all persons to be displaced after acquisition, and work with all relocatees well in advance of the actual date of acquisition, to the end that possession of the land, free of all occupants, can be delivered to Urban at the earliest possible date after acquisition; and
- d) Prepare all necessary documents and commence all possession proceedings necessary to relocate all occupants of the Project area as soon as reasonably possible after land acquisition.

Carrying costs shall include payments to be made by the Authority to the City of Boston in lieu of taxes, as determined by the City, for property which becomes exempt from taxation by reason of the Authority's ownership.

The Land Disposition Agreement shall also provide for the purchase by Urban from the Authority, or the leasing by Urban from the Authority, of the properties within each phase of the Project area acquired by the Authority, in accordance with a timetable of purchase or lease dates on which Urban and the Authority shall mutually agree (which timetable shall, however, call for land acquisition of each phase within the Project area as defined in the Phasing Schedule); Urban will have the option, in any case, whether to purchase or lease such properties.



Since Urban is to assume obligations with reference to properties acquired by the Authority as aforesaid, the Authority agrees that it shall proceed with acquisition in accordance with a schedule mutually agreed upon by the Authority and Urban; and consistent therewith, the Authority shall not proceed with acquisition of properties in advance of the times established by such schedule without Urban's consent.

Urban recognizes the hardship which the staged development of the Project may cause to property owners in the Project area. Where Urban and the Authority shall jointly determine that there is bona fide hardship, as a result of the staged development of the Project, Urban agrees to use its best efforts, in cooperation with the Authority and the City, to work out a program on the basis of which early acquisition of properties in advance of the general timetable of acquisition may be arranged.

In connection with land acquisition, reference is made to the fact that certain land may be required to be acquired for the relocation of Charles Street, while other land within the Project area is now owned by the City. As to land in the Project area now owned by the City, the same shall be conveyed to Urban on the basis of appraisals of the land at fair market value, fair market value being defined as determined with reference to zoning, without regard to increments in value which are attributable to combination of such parcels with other parcels, i.e., valuing the land as individual, unadjoined pieces, and based on similar appraisals for the valuation of similar City streets.

Unless Urban can purchase this land in City ownership to be conveyed to Urban for a price under \$2,000,000.00, Urban's obligations under this Letter of Intent are null and void, and Urban's deposits shall be returned.



Said appraisals must be completed within sixty (60) days from the approval of the Plan by the Council.

When the Authority acquires land necessary for the location of new Charles Street, certain parts of land so to be acquired are to be sold (or leased, as aforesaid) to Urban. The purchase price of such portions shall be the pro rata share of the land costs and costs of demolition of existing improvements, except there shall be deducted from the price otherwise determined that part of relocation expenses paid for by Urban but allocable to land areas to be retained by the Authority for the location of new Charles Street. Consistent therewith, Urban agrees to pay all relocation costs for persons displaced from land acquired for the purpose of obtaining the new location of Charles Street.

For the Phasing areas Urban elects to purchase, the Land Disposition Agreement shall provide that the purchase price shall be equal to the principal amount of the Bond Issue, allocable thereto, together with accrued interest thereon. In addition, Urban shall be obligated to make payments to the City of Boston in lieu of taxes attributable to such properties within said phase agreed upon between the Authority and Urban, for properties owned by the Authority which are currently exempt from taxation. Payment for purchased property shall be made by conveyance thereof subject to the obligations imposed on the properties transferred by the terms of the Bond Issue.

For the Phasing areas which Urban elects to lease from the Authority, the Authority shall enter into a long-term, so-called completely net ground lease (the "Lease") with Urban containing, but not limited to, the following terms and provisions:

- a) Annual rent shall include an amount equal to interest and sinking fund payments due on the Bond Issue;
- b) Urban shall be entirely responsible for the payment of real estate taxes and for payments in lieu



of taxes on account of property exempt from taxation by reason of the Authority's ownership, in amounts determined by the City;

- c) Any income earned by the Authority from properties covered by the Lease shall, after deducting reasonable expenses fairly allocable thereto (but not any amounts determined by reference to the Authority's Staff expenses, except property management fees) be treated as a credit to rent under the Lease. Such income is herein referred to as the "Credits";
- d) The term of the Lease shall expire on the date when the Bond Issue matures and all the unpaid principal thereof is due and payable. At that time, the Authority shall sell and Urban shall purchase the fee in the land covered by the Lease for a purchase price equal to the then outstanding unpaid principal and interest on the Bond Issue, after taking account of amounts available for payment against principal from the sinking fund and Credits, if any, not theretofore applied against rent; and
- e) At any time during the term of the Lease, Urban shall have the right to acquire the fee to the land covered by the Lease at a purchase price equal to an amount determined in accordance with subparagraph d) immediately above with appropriate adjustments such as those referenced in subparagraphs a), b), and c).

Where Urban purchases portions of the Project area, and leases other portions, separate bond issues, or separate series of the same bond issue, will be utilized for the financing of



each Project area, such separate issues or series being allocated in their entirety to a purchased portion and a leased portion of the Project area.

In any case where payments are to be made in lieu of taxes, with reference to property exempt from taxation, the amount thereof, per year, shall in no event exceed the amount which would have been payable as real estate taxes if the property were not exempt from taxation.

However, where payments to be made in lieu of taxes are not fixed by statute, Urban shall participate in all negotiations with the City relative to the amounts to be paid in lieu of taxes, and settlement of such amounts shall be made only with Urban's approval.

#### Section 4.4.. Private Acquisition; Cooperation in Eminent Domain Proceedings

Although it is contemplated that properties within the Project area will be acquired by the exercise of the Authority's power to take by eminent domain, the Authority understands that Urban will negotiate with individual owners of individual parcels before any eminent domain action is instituted and, in some instances, after a taking. In the case of any settlement of an eminent domain proceeding which Urban negotiates after a taking by eminent domain, the Authority agrees to join in any reasonable settlement thereof, provided the Authority receives suitable assurances that the cost thereof shall be financed by Urban or will be satisfactorily funded by the Bond Issue.

In the case of individual parcels acquired by Urban by private negotiations, the Authority agrees, on Urban's request, to take the same by eminent domain, notwithstanding Urban's



ownership of the same, and to make an eminent domain award on account thereof equal to Urban's cost of acquisition thereof, provided said cost is the result of a reasonable settlement, subject, however, to assurances provided to the Authority as to the financing of such acquisition, as in the case of a settlement of an eminent domain proceeding Urban negotiates after a taking from a third party. Urban agrees, however, that, in the case of individual parcels acquired by Urban by private negotiations, Urban shall remain responsible for the payments to non-owner individual occupants in the properties so acquired for the same relocation payments for which Urban would have been responsible had the property been taken by eminent domain.

Incident to the exercise of the Authority's power to take by eminent domain, the Authority shall consult with Urban relative to the method by which all appraisals for acquisition are to be made, and the appraisers selected to perform the appraisals in preparation for the exercise of such power, and no offer shall be made by the Authority to the owner of any property within the Project area as to the terms and conditions of any voluntary sale or settlement of any eminent domain proceeding without the prior approval of Urban. The Authority shall secure the concurrence of Urban in the selection of appraisers and counsel representing the Authority in the eminent domain proceedings.

#### Section 4.5. Court Award

Urban recognizes that, in the event of an eminent domain taking, the Authority may, due to a court award, be required to pay a larger amount for land acquisition than was paid by the Authority in the initial damage award. To provide for this contingency, the Land Disposition Agreement or the Lease, as the case may be, shall provide that, in the event the Authority is required to pay such larger amount, Urban shall pay to the Authority,



upon demand, an amount which shall be sufficient to reimburse the Authority for such additional amount, together with interest thereon, and Urban shall provide the Authority with adequate security to satisfy its obligations hereunder.

The amount of security from time to time that the Authority may require relative to performance of Urban's obligations shall not exceed, in the aggregate, thirty per cent (30%) of the initial awards made in eminent domain proceedings on properties, the awards for which are at the time in dispute, and the form of such security may be an unconditional irrevocable Letter of Credit in the form and from a bank acceptable to the Authority. The amount of said security shall in no way limit the obligation of Urban to pay the total and final award of land acquisition costs.

#### PART V.

#### BOND ISSUE

##### Section 5.1. Development Bonds

Urban has advised the Authority that it is considering the feasibility of effecting financing of improvements to land within the Project area, as well as land acquisition, by the use of bond issues (the "Development Bond Issue") under the aegis of the Authority, in suitable principal amounts.

As in the case of the Bond Issue, which it is intended may be utilized to finance acquisition of properties, any such Development Bond Issues shall contain provisions to the effect that the holders of the Bonds would look only to the properties, the acquisition or development of which is to be financed by such Development Bond Issues, and not to the general credit of the Authority, which shall have no obligation to pay the indebtedness evidenced thereby.



The Authority agrees to cooperate (but without out-of-pocket expense to the Authority) with Urban in Urban's consideration of such financing route and the Authority agrees to utilize such a financing vehicle to assist Urban in its financing of the Project from time to time provided that Urban furnishes assurances reasonably satisfactory to the Authority that Urban has arranged for the marketing of the same and that the prospective lender or investment banking house responsible for such marketing is satisfied with the legality of the Bond Issue, on the basis of the opinion of counsel to such lender or investment banker, which opinion shall be submitted to the Authority. The opinion of a recognized bond counsel as to the legality of this financing which is acceptable to such prospective lender or investment banking house, upon which opinion the prospective lender or investment banking house commits to rely in proceeding to close the proposed financing, shall constitute assurances reasonably satisfactory to the Authority.

#### Section 5.2. Industrial Development Bonds

Under Section 103 of the Internal Revenue Code, certain types of bond issues (the "Industrial Development Bonds") are exempt from Federal income tax.

The Authority agrees to cooperate (but without expense to the Authority) with Urban in qualifying any Bond Issue or any Development Bond Issue as an Industrial Development Bond under the Internal Revenue Code, as the same may now or hereafter be in force. Copies of rulings secured from the Internal Revenue Service will be made available to the Authority.

#### Section 5.3. Pre-acquisition Improvements

Urban contemplates the possibility that certain site development work and other improvements may be made on properties within the Project area before acquisition of title by the Authority. To the extent that the same are accomplished before such acquisition, and subject to assurances satisfactory to the Authority of the legality of acquisition of improved properties by the Authority, the Authority agrees to cooperate with Urban in arrangements



which Urban may effect for such improvement prior to acquisition by the Authority; and, to the extent feasible and legally permissible, to include all such improvement costs as part of the acquisition costs which may be financed by a bond issue otherwise contemplated by this Letter of Intent.

## PART VI.

### MISCELLANEOUS

#### Section 6.1. Preference in Leasing of Space

Urban agrees, to the extent practicable, to give preference to former occupants of space in the Project area in the leasing of space in the Project. First preference shall be given to former occupants theretofore displaced incident to acquisition of properties by the Authority and second preference shall be given to then present occupants of properties remaining in the Project area not yet acquired by the Authority or in buildings in areas where demolition has not yet taken place.

The obligation of Urban to give preference shall not be construed as imposing upon Urban any legal obligation to accept as a tenant of space in the Project a person, firm or corporation which it considers, in good faith, to be an unacceptable tenant by reason of credit, reputation or other relevant consideration, such as the use to which such tenant proposes to put space which might otherwise be made available to such tenant. Likewise, such obligation to give preference shall not be treated as imposing a legal obligation upon Urban to accept a tenant, the credit and reputation of which, or the amount which such tenant is prepared to pay for space which might otherwise be made available to it, is of lesser quality or lesser amount than another proposed user which wishes to make use of such space.



## Section 6.2. Relocation

Urban recognizes that the Authority intends that all business and residential relocatees within the Project area shall be reimbursed for relocation costs in accordance both with the requirements of Chapter 79A of the General Laws of the Commonwealth and with the Federal rules in effect prior to September 10, 1970, establishing the amount of relocation costs reimburseable to relocatees in Federally assisted Urban Renewal areas.

The Land Disposition Agreement or the Lease, as the case may be, shall provide that Urban shall employ the Authority to relocate all tenants within the Project area and shall advance and provide operating capital to the Authority for business and residential relocation costs which are to be reimburseable in accordance with the standards referred to in the preceding paragraph.

## Section 6.3. Real Estate Taxes

Urban has advised the Authority that Urban intends to review its proposals for the Project with the Tax Assessor of the City of Boston, for the purpose of reaching an understanding relative to the basis upon which real estate taxes will be assessed to various parts of the Project. Urban has advised the Authority that its ability to secure financing for the Project, and the entire economic feasibility of the Project, is contingent upon Urban's ability to reach a satisfactory understanding with the City which will permit development to proceed on a financially feasible basis.



#### Section 6.4. Assignment

Urban intends to cause to be formed a Joint Venture in which the two individuals signing this Letter below on behalf of Urban will be the managing Joint Venturers, and Urban intends that the Land Disposition Agreement will be entered into by such Joint Venture, as the Developer in lieu of Urban. If Urban's intentions in this respect are carried out, and a Joint Venture is formed for purposes of acting as the Developer, the Authority agrees to recognize such Joint Venture as Urban's successor, provided that it is satisfied that the managing Joint Venturers are, in fact, said individuals, viz., Zuckerman and Linde.

Urban, however, agrees to notify the Authority of the identity of any person which proposes to acquire a ten per cent (10%) or greater beneficial interest in the Joint Venture. The Authority, at any time within fifteen (15) days after receiving notice of the identity of such person, shall have the right to notify Urban that it objects to the admission of such person in the Joint Venture if the Authority shall, in such notice, specify reasonable grounds for such objection. If such notice shall be given by the Authority, such person shall not be admitted to such an interest in the Joint Venture without the consent of the Authority, but the Authority agrees to consult further with Urban, if Urban continues to desire to admit such person to the Joint Venture, and not unreasonably to withhold consent to such admission.

#### Section 6.5. Urban Development Corporation

Urban has advised the Authority that, if an urban development corporation should be created in The Commonwealth of Massachusetts, the assistance of such an agency in the development of Park Plaza might well be of great importance to its development and ultimate success, and, accordingly, the Authority agrees that it will cooperate with Urban in connection with any assistance sought from any such corporation incident to the Project. If actual funds are made available by an urban development corporation for the development of Park Plaza by Urban, and urban development corporation fund resources are limited, the Authority may require an opinion of said urban development corporation



that such funds shall not unreasonably affect the availability of urban development corporation funds for other suitable projects within the City of Boston at that time.

#### Section 6.6. Changes in the Plan

The Authority hereby agrees with Urban that any change in the Plan, other than changes affecting exclusively Parcels 4 and 5, not consented to by Urban will constitute a change which would "materially affect the parcels in the Project area which have been sold or leased". However, Urban agrees to consent to changes which are not material and which do not adversely affect its interest.

#### Section 6.7. Additional Payment to City

In addition to all other amounts to be paid by Urban on account of acquisition of Parcels 1, 2 and 3 of the Project area, Urban further agrees to pay to the City the sum of \$3,000,000.00, payable in annual installments not to exceed \$150,000.00 each, commencing on the first to occur of:

- a) The expiration of five (5) years following substantial completion of the development of Parcels 1, 2 and 3; or
- b) The expiration of thirteen (13) years after the commencement of construction in the Project area.

The obligation on the part of Urban to make such payment shall be an obligation as to which recourse may be had only against the Project, and shall be subject to the availability of funds to make such payment after all operating costs, debt service or other payments to outside lenders and to investors, other than Urban, have been made, but before any return to Urban on its investment, it being understood that a more detailed subordination agreement will be developed in the Land Disposition Agreement.



\* \* \*

Upon acceptance by the Authority of this Letter of Intent, and approval of the Plan by the Council, Urban shall deposit with the Authority:

- a) The sum of \$100,000.00 in cash or by obligations of such value guaranteed by the United States Government, or obligations of States of the United States satisfactory to the Authority. The cash deposit already made by Urban with the Authority, in the amount of \$25,000.00, shall be credited against such obligation. Any interest accruing on deposits shall inure to the benefit of Urban and periodically be paid by the Authority to Urban; and



- b) A Letter of Credit in a form and from a bank acceptable to the Director in the amount of \$150,000.00, which Letter of Credit will become unconditional upon (and only upon) the satisfaction of the conditions set forth below in Paragraphs a) through d) inclusive (which are also conditions upon which Urban is obligated to increase the deposit by means of an additional Letter of Credit, as hereinafter set forth).

Urban further agrees to increase such deposit, by means of an unconditional Letter of Credit in a form and from a bank acceptable to the Director in the amount of \$250,000.00 upon:

- a) Approval of the Schematic Design for Phase I-A;
- b) Completion of appraisals on land required for the development of Phase I-A and Phase I-B; and
- c) Execution of a form of Land Disposition Agreement mutually satisfactory to Urban and the Authority, and execution by the Authority and the City of the authorized Cooperation Agreement.

If the Authority shall determine that Urban has failed to proceed in good faith with its intentions, as outlined herein, then the Authority shall notify Urban of such determination by the Authority, and if, as a result of the Authority's action, it shall finally be determined by a final decree of a court of competent jurisdiction that Urban has so failed to proceed, then the Authority shall have the right to retain that part of the deposit at the time made by Urban as fixed liquidated and agreed damages sustained by the Authority because the parties are unable to ascertain the exact amount of damages, costs, disbursements and expenses which the Authority would sustain by reason of abandonment of the Project by Urban, and such rights shall be the Authority's sole remedy.



The Authority shall not have the right, however, to retain such deposit as liquidated damages if the Plan is not duly and formally adopted or if an agreement in the form of a Land Disposition Agreement to carry out this Project, mutually acceptable to both Urban and the Authority, is not consummated, or if, Urban having acted in good faith, it is unable to proceed due to causes beyond Urban's reasonable control, such as, but without limitation, governmental regulation of construction or credit, which would impede Urban's development, national emergency or natural catastrophe; subject, however, to payment by Urban to the Authority of the expenses referenced in Part III hereof. In any case where the Authority is not entitled to retain such deposit under the terms of this Letter, and where Urban's further obligations shall have ended, the Authority shall return such deposit to Urban after deducting therefrom any unpaid expenses which are the responsibility of Urban.

If the foregoing accurately states your understanding of the plans upon which the Authority and Urban mutually agreed to proceed, would you please so indicate by accepting this Letter by appropriate acknowledgment thereof.

Very truly yours,  
BOSTON URBAN ASSOCIATES

By \_\_\_\_\_  
Mortimer B. Zuckerman

By \_\_\_\_\_  
Edward H. Linde

ACCEPTED AND ACKNOWLEDGED:  
BOSTON REDEVELOPMENT AUTHORITY

By \_\_\_\_\_  
Robert T. Kenney, Director

## DEVELOPMENT SCHEDULE FOR THE VARIOUS STAGES OF PARK PLAZA

### Phase I

#### I-A            Stage A - Hotel and Parking Garage (Parcel 2)

Substantial construction shall commence not later than four (4) months after land is cleared and streets and utilities are available to permit construction to commence, it being understood that financing will be available and that land acquisition can be started three (3) months after approval of the Schematic Design. It is hoped that land will be available by late spring or early summer of 1972.

#### I-B            Stage B - First Residential Tower and First Portion of Retail Arcade (Parcel 1, between Charles Street and Hadassah)

Construction is to commence approximately six (6) months following commencement of construction on Stage A but in no event later than eighteen (18) months following commencement of construction on Stage A. Stage B and Stage A are interchangeable as to time.

#### I-C            Stage C - Retail Arcada and Low Rise Office Space (Parcel 1, between Hadassah Way and Arlington Street)

Construction is to commence approximately eighteen (18) months following commencement of construction on Stage A but in no event later than thirty (30) months following commencement of construction on Stage A.

### Phase II

#### II-A           Stage D - Residential Tower (western portion of Parcel 3)

Construction is to commence approximately thirty-six (36) months following commencement of construction on Stage A but in no event later than seventy-two (72) months following commencement of construction on Stage A.

#### II-B           Stage E - Third Residential Tower (eastern portion of Parcel 3), to include low-to-moderate-income housing for the elderly if subsidized financing for the same can be secured)

Construction is to commence approximately forty-eight (48) months following commencement of construction on Stage A but in no event later than eighty-four (84) months following commencement of construction on Stage A.



II-C      Stage F - Office Tower (corner of Arlington and Boylston  
Streets)

Construction is to commence no later than eighty-four (84) months following commencement of construction on Stage A.

BOSTON REDEVELOPMENT AUTHORITY SITE OBLIGATIONS

<u>Description of Work</u>	<u>Estimated Cost</u>
Rebuilding of Arlington Street (between Boylston and Stuart)	\$ 245,650
Rebuilding southerly half of Boylston Street ) (between Arlington and New Charles)	) - 593,900
Resurfacing of Boylston Street (between New Charles and Tremont)	) -
Rebuilding of Church Street (between Columbus and Stuart)	24,750
Rebuilding of Columbus Avenue (between Stuart and Church)	285,000
Construction of New Charles Street (between Boylston and Stuart)	4,678,150
Rebuilding of Providence Street (between Arlington and Providence- Street Extension)	175,100
Construction of New Providence Street Extension (between Providence and Stuart)	139,900
Rebuilding of Stuart Street (between Arlington and Tremont)	599,250
Resurfacing of Tremont Street (between Boylston and Stuart)	58,300

Included in each instance are: street lighting; high-service water system; low-service water system; high pressure fire system; surface drainage system; sanitary sewer system; traffic control system; street, traffic, and directional signs; and police signal and fire alarm systems.



